

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

IN RE: OHIO EXECUTION
PROTOCOL LITIGATION

: Case No. 2:11-cv-1016

:

District Judge Edmund A. Sargus, Jr.

: Magistrate Judge Michael R. Merz

This document relates to All Plaintiffs

:

ENTRY DISMISSING DEFENDANT RICHARD THEODORE

Defendant Richard Theodore is sued in this case solely in his official capacity as a pharmacist employed by the Ohio Department of Rehabilitation and Corrections to whom had been “delegated responsibility for matters related to execution drugs.” (Fourth Amended Omnibus Complaint, ECF No. 1252, PageID 45462, ¶ 110). The Court was advised during the telephone status conference on February 20, 2020, that Mr. Theodore has retired and is no longer employed in any capacity by the State of Ohio; no one has been hired or appointed to the position from which he retired; there is not “any active recruitment at this time” to fill Mr. Theodore’s position; and the State has no intention of employing or retaining Mr. Theodore in any capacity for any matters related to execution drugs, including, without limitation, efforts to obtain such drugs. Given these facts, the State Defendants moved that he be dismissed as a party.

Accordingly, Richard Theodore is, pursuant to Fed.R.Civ.P. 25(d), dismissed as a party to this case. No substitution is made pursuant to that Rule. If at any time in the future, including but not limited to during the pendency of this action, the State of Ohio employs or retains as an

independent contractor any person who performs or is designated to perform any of the functions Mr. Theodore performed during his tenure as pharmacist, the State Defendants will forthwith advise the Court and all parties of the Name or names of such persons and which functions heretofore performed by Mr. Theodore have been assigned to such person or persons. Moreover, if at any time in the future Mr. Theodore is ever employed, retained as an independent contractor, or in any other way conducts any of the functions that he performed during his tenure as pharmacist, the State Defendants will forthwith so advise the Court and all parties.

February 21, 2020.

s/ *Michael R. Merz*
United States Magistrate Judge